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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/003,877	10/25/2001	Kenneth W. Kolb	16313/94484-00	6552

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EXAMINER

COCKS, JOSIAH C

ART UNIT	PAPER NUMBER
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3743

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DATE MAILED: 04/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/003,877

Applicant(s)

KOLB, KENNETH W.

Examiner

Josiah C. Cocks

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 October 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2 & 4. 6) ☐ Other:

DETAILED ACTION

Priority

1. Applicant's claim for domestic priority under 35 U.S.C. § 119(e) for provisional application 60/288,184 is acknowledged.

Drawings

2. The drawings filed 10/25/01 are accepted by the examiner.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3 and 6-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Guida et al.* (US # 4,793,323) (cited in applicant's IDS paper #2).

Guida et al. discloses in Figures 1-14 a thermic module for a self-heating container and method of assembling substantially as described in applicant's claims 1-3 and 6-30 including providing a first cup/vessel (4) forming a chamber (7) having plastic walls and containing a first chemical reactant, a second cup/compartiment (11) containing a second chemical reactant, an end cap (see Fig. 4), a dividing wall (see Fig. 2), and an actuator (10) for puncturing the dividing

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wall. *Guida et al.* further discloses a safety vent (14) that is provided against overpressures and which releases at a predetermined pressure (see col. 5, lines 50-58).

In regard to the limitation of claim 1 that the walls of the first cup are formed of a plastic of sufficient thinness and have a sufficiently low Vicat Softening Point such that the walls expand upon mixing of the two reactants, *Guida et al.* discloses that the walls of chamber (7) are made of polypropylene (see col. 6, lines 7-9) and describes a thickness of the walls as .5mm (see col. 6, lines 25-30). Applicant discloses in the specification that polypropylene is a material with a suitable Vicat Softening Point and the range of wall thinness from .001 mm to .65 mm (see specification pg. 13). Therefore, as the material and thickness are those specified by applicant, it would be inherent that the walls of *Guida et al.* would have a sufficiently low Vicat Softening Point.

In regard to claims 2, 3, 6-15, 17, 24, and 29, as *Guida et al.* discloses a self-heating container that functions for the same purpose as the container of applicant and includes a material and wall thinness described by applicant as desirable. While these claims are limiting to the recited temperatures, wall thinnesses, and materials as noted in applicant's specification (pg. 13), these attributes of the container are described as the equivalent of the polypropylene and wall thinness disclosed by *Guida et al.* Therefore, to have selected a specific temperature, specific wall thickness, or specific material would be simply a matter of optimizing a prior art condition obtainable through routine experimentation and is not regarded as patentably distinct (see MPEP § 2144.05 (II)(A)).

In regard to claims 19 and 20, *Guida et al.* teach that the safety vent may be activated at a predetermined pressure (see col. 5, lines 58-61). Therefore, to have selected a specific value for

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the pressure that activates the safety vent would be simply a matter of optimizing a prior art condition obtainable through routine experimentation and is not regarded as patentably distinct (see MPEP § 2144.05 (II)(A)).

In regard to claims 25-27, *Guida et al.* teach that solid and liquid compounds are combined together in different ratios (see col. 6 through col. 8). Therefore, to have selected specific liquid to solid ratios would be simply a matter of optimizing a prior art condition obtainable through routine experimentation and is not regarded as patentably distinct (see MPEP § 2144.05 (II)(A)).

5. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Guida et al.* as applied to claim 1 above, and further in view of *Martin* (US # 2,300,793).

Guida et al. teach all the limitations of claims 4 and 5 except possibly for a cutting edge and blunter spreading edge and specifically a plurality of these cutting and spreading edges.

Martin teaches a self-heating container in the same field of endeavor as *Guida et al.* wherein the container of *Martin* includes a piercing actuator that includes a plurality of cutting edges (21) and spreading edges (23).

Therefore, in regard to claims 4 and 5, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the actuator of *Guida et al.* to include the multiple edges of *Martin* as this edge configuration facilitates the rapid escape of fluid through the puncture (see *Martin*, page 2, lines 29-39).

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Conclusion


6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. *Brewer* and WO 93/17928 are included to further show the state of the art concerning self-heating container structure.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Josiah Cocks whose telephone number is (703) 305-0450. The examiner can normally be reached on weekdays from 7:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennett, can be reached at (703) 308-0101. The fax phone numbers for this Group are (703) 308-7764 for regular communications and (703) 305-3463 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.

jcc
April 21, 2003


JOSIAH COCKS
PATENT EXAMINER
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